STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
	:	
Petition for approval of delivery services tariffs and tariff revisions and of residential delivery services implementation plan, and for approval of certain other amendments and additions to its rates, terms, and conditions	:	No. 01-0423

Surrebuttal Testimony of

PHILIP E. VOLTZ

Director, New Residential Construction Group
Exelon Infrastructure Services

Q. What is your name and business address?

A. Philip E. Voltz, Exelon Infrastructure Services, 200 Yale Avenue, Morton, Pennsylvania 19070.

Q. Have you previously given direct, rebuttal, and supplemental rebuttal testimony on behalf of Commonwealth Edison Company (the "Company" or "ComEd") in this Docket?

A. Yes.

Q. What are the purposes of your testimony?

A. The purposes of my testimony are to respond to: (1) rebuttal testimony of Illinois Commerce Commission (the "Commission") Staff ("Staff") witness Garret Gorniak regarding distribution plant placed in service in the second quarter of 2001; (2) rebuttal testimony of various witnesses related to the assertion that past reliability problems have led to an increment of imprudent costs in ComEd's proposed revenue requirement; (3) the rebuttal testimony of Staff witness Bruce Larson regarding "premiums" and time-related incentives; (4) the rebuttal testimony of Mr. Larson as to capitalized labor; (5) the rebuttal testimony of "ARES Coalition" witnesses Dr. Philip O'Connor and Richard Spilky on the burden of proof and prudence; (6) rebuttal testimony of various witnesses regarding the so-called "audit" proposals; (7) rebuttal testimony of Staff witness Bryan Sant and "Government and Consumers" ("GC") witness David Effron regarding alleged "abnormality" of expenses and proposals for top-level expense adjustments; (8) rebuttal testimony of GC witnesses David Schlissel and Mr. Effron regarding projected expenditures; (9) rebuttal testimony of Staff witness Burma Jones regarding tree management expenses; (10) rebuttal testimony of Mr. Sant regarding variable storm damage expenses; and (11) rebuttal testimony of Mr. Sant regarding ComEd's variable storm damage expense reserve proposal.

Plant Placed in Service in the Second Quarter of 2001

Q. In discussing distribution plant placed in service in the second quarter of 2001 that was included in one of the Company's *pro forma* adjustments, Mr. Gorniak states "the response to my Staff Data Request GEG-1.01 indicated the total actual expenditure on the projects that went into service was $115,554,000" (Staff Ex 15.0, page 3, lines 54-56). Are these numbers reflective of the actual expenditures on these projects to date?

A. No. Those numbers were produced as of June 30, 2001, in response to Mr. Gorniak's data request. Actual and accrued expenditures on the projects (which are described in ComEd Ex. 5.3) as of September 30, 2001, are $123,680,161.

Q. Actual and accrued expenditures, as of September 30, 2001, are less than the original estimates included in the *pro forma* adjustment to rate base. Do you believe a revision to the *pro forma* adjustment is necessary?

A. No, I do not believe a revision to the *pro forma* adjustment is necessary. Project expenditures will continue on some of these projects in the months to come. As such, I believe we're still entitled to recover the $126.6 million as proposed in my direct testimony (ComEd Ex. 5.3). Given Mr. Gorniak's position and to the extent that a revision to the *pro forma* adjustment is necessary, a revised *pro forma* adjustment should be based on nothing less than the current number of $123,680,161.

Q. Are there any revisions that need to be made to the rate base?

A. Yes. Since my supplemental rebuttal testimony, our internal analysis has shown that some work related to preparation and submittal of basic design drawings completed during 1999 and booked to projects in service, in particular Northwest, was applied to the State project (which is not included in the rate base). ComEd made an adjustment to reflect this fact on its books during the second quarter of 2001, along with other bookings to plant on capital expenditures involving Northwest. ComEd is voluntarily making an additional downward adjustment of $1.014 million to its rate base in this proceeding as filed on June 1, 2001 to reflect the actual plant-in-service balance for Northwest as of September 30, 2001.

Reliability

Q. Several intervenors have claimed that the proposed revenue requirement contains an increment of costs incurred due to past reliability problems. Is that claim true?

A. No. While ComEd's aggregate costs have increased, it is not due to past imprudence. The Commission cannot compare ComEd's past costs with its current costs of business and assume that the difference, or any part thereof, is "catch- up" or the costs of fixing past mistakes. In terms of capital costs, the evidence is that "premiums" were not incurred for the capital projects that were undertaken. Time-related incentives should not be considered premiums, as discussed in detail in both the rebuttal and surrebuttal testimonies of my colleague Dr. James Williams (ComEd Exhibits 25.0 and 47.0). ComEd has provided substantive information with regards to its major projects and the incentives associated with these projects. This information was based on detailed bid documents, contracts, purchase orders, and itemized invoices. In addition, ComEd provided a substantial volume of documents in response to data requests from the

Attorney General's Office. (See Surrebuttal Testimony of Dr. James Williams, ComEd Ex. 47.0, for more detail.) Despite the tremendous volume of information provided, when the GC intervenors were asked if they were "aware of any document in which ComEd has stated that any distribution capital project, as to which the costs of said project are included in whole or in part in ComEd's proposed rate base, had incremental costs that would not have been incurred but for past imprudence or errors on the part of ComEd", their response was simply "No." (Response to ComEd's Second Set of Data Requests to the "GC" Intervenors, data request 2.83). As to O&M expenses related to past reliability issues, such as emergency restoration expenses and repair costs, these expenses were incurred in 1999 and are therefore not included in the test year. ComEd has provided detailed, quantitative responses to numerous data requests regarding spending in 1999 and 2000 on various programs and in different FERC accounts. ComEd has shown that there is no evidence of increased O&M expenses in the adjusted test year due to past reliability problems.

<u>Premiums/Time-Related Incentives</u>

Q. In his rebuttal testimony, Mr. Larson considers the difference of $449,000 between the selected bid and the lowest bid for particular transformers to be a time-related incentive (Staff Ex. 23.0, page 11, lines 229-232). Is this correct?

A. No. A time-related incentive is an additional amount to be paid to the vendor in addition to the base contract price if certain conditions are met, such as expedited delivery or targeted completion of a project by a pre-set date, and is usually specified in the contract. This is not the case here. As a part of its bid process, ComEd analyzes individual vendors and the values of their respective bids. There are several factors considered in selecting a vendor, including but not limited to product quality and suitability, operating cost, reputation of the vendor, delivery time, and price. In the case of transformers, it is not always reasonable to choose the vendor simply because it offers the lowest transformer price. Evaluating the life-cycle cost of the transformer often makes more economic sense, so factors such as the efficiency of the transformer and installation and removal costs may also be considered. The price of the transformer is but one among many considerations taken into account during the selection process.

Q. Should the $449,000 difference between the low bidder and selected bidder be included as a time-related incentive?

A. No. As stated above, this amount does not constitute a time-related incentive.

Q. How much did ComEd pay in time-related incentives?

A. In reviewing vendor invoices, ComEd discovered a contract amendment that included time-related incentives. The invoices indicate that $79,000 of time-related incentive and a special shipping charge of $16,500 were earned and paid out. This incremental $95,500 was paid out to expedite the shipment of a transformer. A separate amount of $16,293,000 was paid for project-based time-related incentives. Project-based time-related incentives are further discussed in the rebuttal and surrebuttal testimonies of ComEd witness Dr. James Williams (ComEd Exhibits 25.0 and 47.0).

Q. Should the $449.0 thousand difference between the selected bid and the lowest bid for particular transformers, the $95.5 thousand paid to expedite the shipment of a transformer, or the $16.3 million paid for project-based time-related incentives be excluded from the rate base?

A. No. For the reasons stated above, in my previous testimonies, and in the testimonies of my colleagues, these expenditures should not be excluded from the rate base.

Capitalized Labor

Q. Mr. Larson states that "As workers begin to 'burnout', their productivity declines until they are relieved." (Staff Ex. No. 23, page 8, lines 178-179) How do you respond?

A. Mr. Larson implies that having current employees work overtime is less productive than hiring new employees. I have been a manager of large work crews and can state the following. In the short-term, the hiring of new employees has a significant downward impact on productivity. New employees lose time to formal as well as informal on-the-job training, and compared to a trained and experienced employee, the new employee will be less efficient in completing tasks. Further, the productivity of experienced employees can also be diminished due to the need to spend time training and supporting new employees and additionally reviewing the quality of their work. When it comes to large one-time projects, it often makes more sense to use overtime and contractors to manage the short-term influx of work. It does not make sense to hire new employees on a short-term basis to perform one-time project-related work.

Q. In your rebuttal testimony, you stated that "Due to the fixed costs inherent in hiring new full-time employees, this approach would have cost ComEd a similar amount as would have been saved in overtime premiums." (ComEd Ex. 24.0, page 4, lines 68-70) What has been the response of intervenors to your assertion?

A. In his rebuttal testimony, Mr. Larson stated that he “cannot deny the calculations” (Staff Ex. 23.0, page 8, line 173) that were presented in my rebuttal testimony. Further, ComEd asked Mr. Larson the following question in a data request: “Does Mr. Larson agree that if ComEd had hired additional workers to perform distribution capital projects in 2000 rather than incurring overtime costs, the fixed costs incurred in connection with hiring such new employees would have approximated any savings in overtime expenses?” Mr. Larson responded, “Yes.” (Response to ComEd’s Third Set of Data Requests to Staff, data request 3.61).

Q. Do you agree with Mr. Larson’s proposed disallowance, to capitalized overtime labor, as reflected in Mr. Gorniak’s schedule (Staff Ex. 15.3)?

A. No. I do not believe a disallowance is necessary for all the reasons stated above and in my rebuttal testimony.

“Burden of Proof”

Q. Dr. O’Connor and Mr. Spilky claim that the Company has not met its burden of proof (Rebuttal testimony of Dr. O’Connor and Mr. Spilky, pages 18-19) and that: “There are numerous expense items that Edison has either failed to prove should be included in the test year or failed to show the relationship of the cost item to its provision of delivery services” (*id*. at page 19, lines 477-480). What is your response?

A. Their testimony is wrong. As I discussed in my direct testimony, the distribution O&M expenses included in the adjusted test year have been functionalized. They are the O&M costs of providing jurisdictional delivery services to retail customers. They do not include costs of serving municipal customers. In my direct testimony, I also discussed

ComEd's use of a variety of accepted cost controls to manage and control its operations expenses. These expenses needed to be incurred in order to provide jurisdictional delivery services. They are reasonable in amount. I address elsewhere in my surrebuttal, as I have in my rebuttal and supplemental rebuttal testimony, the incorrect notion that these expenses were abnormally high. ComEd has amply met its burden of proof as to the functionalization of, need for, and amount of these expenses. The testimony of other ComEd witnesses also refutes Dr. O'Connor and Mr. Spilky's various testimony on the burden of proof and functionalization. In his surrebuttal, Mr Hill addresses among other things, the inclusion of environmental remediation expenses, incentive compensation expenses, and Administrative & General expenses, as well as General Plant and Intangible Plant costs, in the jurisdictional revenue requirement. Mr. DeCampli in his surrebuttal shows that ComEd has met its burden of proof as to the distribution capital investments at issue. ComEd previously has shown, principally through other witnesses' testimony but also through my direct testimony, that distribution plant is properly functionalized. Finally, other ComEd witnesses present surrebuttal testimony regarding the cost of capital in relation to the "provider of last resort" issue discussed by Dr. O'Connor and Mr. Spilky and why ComEd correctly has calculated the rate of return component of its jurisdictional revenue requirement.

<u>Audit</u>

Q. In your opinion, should ComEd be made subject to an "audit", as suggested by several intervenors?

A. No. ComEd has provided, in both data request responses and previous testimony, sufficient information for intervenors and the Commission to review. An "audit" is altogether unnecessary and would be burdensome and time consuming. The burdensome and time-consuming nature of a full-fledged audit would take key executives and managers away from running the business. This subject is discussed in further detail in the surrebuttal testimony of ComEd witness Dr. James Williams (ComEd Exhibit 47.0). Moreover, it appears that these intervenors may actually have procedures in mind, which are more burdensome and extensive than a normal audit.

<u>"Abnormality" of Expenses</u>

Q. On pages 38-40 of his rebuttal testimony, Mr. Sant discusses "contradictory" positions in your direct and rebuttal testimonies. He makes this statement in regard to your position that 1998 should not be considered a normal year for distribution salaries and wages. Specifically, Mr. Sant brings up the Company's proposed tree trimming and storm damage expense adjustments. Please discuss Mr. Sant's assertions.

A. Mr. Sant seems to be asserting that because ComEd used the year 1998 in its normalization adjustments for storm damage expenses and tree trimming, the Company has implied or stated that 1998 is a normal year for distribution salaries and wages. This assertion is wrong for two main reasons. First, ComEd's adjustments to storms and tree trimming are normalization averages. The year 1998 is included in an average with the years 1999, and 2000. Mr. Sant's proposed adjustment is setting 1998 as a normal year and taking the difference between 1998 and 2000. These are completely different adjustments. I have in no way implied that 1998 was a normal year by using 1998 in tree trimming and storm damage normalization averages. Second, because ComEd has proposed adjustments to tree trimming or storm damage expenses, it does not mean that an adjustment should be made for distribution salaries and wages.

Additionally, if a 1998, 1999, and 2000 average (like those for storm damage expenses and tree trimming) is performed on distribution salaries and wages, the result is that the average is approximately the same as the amount included in the adjusted test year. In nominal dollars, the total distribution salaries and wages expenses were $111 million, 138 million, and $190 million in 1998, 1999, and 2000 respectively. But as discussed in my supplemental rebuttal testimony on lines 27-40, this does not represent real and comparable spending levels. In 2000, ComEd accounted for refunctionalization of transmission costs to distribution, and also accounted for annual incentives at a distribution level. Previously, these costs were not accounted for at this level. Further, an annual 3.5% inflation factor needs to be taken into account. The real (in 2000 dollars) spend for 1998, 1999, and 2000 for distribution salaries and wages is $118 million, $139 million, and $136 million respectively (not including proposed downward test-year adjustments of $4.4 million). This produces a three year average of $131 million, which coincides with the *adjusted* distribution salaries and wages amount of $131 million included in the 2000 test year.

Q. Are you proposing or implying a normalization average for distribution salaries and wages?

A. Absolutely not. There is no reason or need to make a normalization average for distribution salaries and wages.

Q. Mr. Sant discusses your rebuttal testimony, in regards to overtime (Staff Ex. 17.0, page 39, lines 773-381). He then continues to discuss your rebuttal testimony in regards to distribution line maintenance programs (Staff Ex. 17.0, pages 39-40, lines 782-793). Has Mr. Sant correctly analyzed your testimony?

A. Mr. Sant seems to be implying that because I have argued or shown in certain circumstances that 1998 is not wholly different from 2000, that I have implied that 1998 is a normal year. He takes my comments out of context. In order to improve the reliability of the system, ComEd has made many substantive enduring changes to various distribution planning, operation, and maintenance practices. It is a simple fact that the Company changed between 1998 and 2000; these changes are reflected in the 2000 distribution salaries and wages. There is no reason to believe that 1998, a year before the Company's enduring changes, represents a normal year for distribution salaries and wages.

Q. In discussing double counting, Mr. Sant states "However, storm restoration expenses are not 100% labor. I do not have the data necessary to determine the percentage applicable to labor." (Staff Ex 17.0, page 42, lines 836-838). What portion of storm restoration expenses is applicable to ComEd labor?

A. In reviewing year 2000 data, 42.3% of total storm damage expense and 49.0% of incremental storm damage expense is applicable to ComEd labor.

Q. Mr. Effron continues to propose a five-year normalization average for FERC accounts 580, 590, 592, 593, and 594, as presented in GC Exhibit 5.1. Do you believe this proposal is reasonable?

A. No. There are at least seven reasons Mr. Effron's average should be rejected. 1) Mr. Effron's average simply does not represent ComEd's cost of business on an on-going basis. Recently, ComEd has made many substantive enduring changes to various distribution planning, operation, and maintenance practices. Years as far back as 1995, 1996, 1997, and 1998 do not reflect these changes and as such do not represent ComEd's actual cost of business. 2) Mr. Effron left out the most recent and representative year, in terms of cost, from his average, the year 2000. His five-year average includes 1995, 1996, 1997, 1998, and 1999. In describing why he included 1995 and 1996 in his average, Mr. Effron states "I included those years because a five-year period is generally a reasonable basis for establishing a normal level of expenses." (GC Ex. 5.0, page 22, lines 20-21). An explanation as to why Mr. Effron did not include the test year in his averages could not be found. 3) Mr. Hill states a number of analytical reasons on pages five through seven of his supplemental rebuttal testimony why such an average should be rejected. 4) Mr. Effron implicitly proposes that ComEd should recover only $680 thousand of distribution incentive compensation on an on-going basis. Because distribution incentive compensation was recorded in FERC accounts 920/921 in 1995-1999 (with the exception of a $3.4 million accrual recorded in FERC account 580 in December 1999) distribution incentive compensation is not included in his averages. This $3.4 million accrual is averaged over five years to produce an on-going amount of $680 thousand. This $680 thousand is compared with $43 million recorded in FERC account 580 in the year 2000 for distribution incentive compensation. 5) Mr. Effron is implicitly proposing that ComEd should not be allowed to recover costs refunctionalized from transmission to distribution. These refunctionalized costs were not included in distribution FERC accounts in 1995-1999. However, these refunctionalized costs were recorded in distribution FERC accounts in 2000. His adjustment removes, from the test year, all $27 million of expense that was refunctionalized from transmission to distribution. In the test year, ComEd incurred a total of $70 million in costs related to distribution incentive compensation and costs refunctionalized from transmission to distribution. Of these costs, Mr. Effron is proposing that the Company should be able to recover only $680 thousand on an on-going basis. 6) Mr. Effron's average excludes the only full year with open access, the year 2000. 7) Mr. Effron states that his "analysis of the revenue requirement as a whole is the background against which [he] propose[s] [his] normalization adjustments." (GC Ex. 5.0, page 20, lines 6-7). As such, Mr. Effron essentially describes how he worked backwards from a proposed revenue requirement (that he deems appropriate), to his proposed normalization averages. Mr. Effron basically has failed to examine the Company's actual costs of doing business. He has proposed an adjustment that does not truly reflect ComEd's actual cost of business.

Q. Mr. Effron states that "Other than some vague generalizations, ComEd has provided absolutely no explanation of the increases in operation and maintenance expenses since the test year in Docket No. 99-0117." (GC Ex. 5.0, page 17, lines 1-3). Additionally, Mr. Schlissel states that you have not presented "any evidence to challenge [his] conclusions that the Company's overall 2000 distribution group O&M expenditures are not representative of future on-going expenditure." (GC Ex. 6.0, page 9, lines 21-23). Are these statements true?

A. No. Their statements are false. Throughout my direct, rebuttal, and supplemental rebuttal testimonies I have discussed in detail the drivers and components of ComEd's 2000 O&M expenditures. Additionally, in response to hundreds of questions posed in data requests from the Attorney General's Office and other parties, ComEd has provided vast amounts of information and data. And even with all the information provided, Mr. Schlissel himself has failed to provide evidence or proof which actually substantiates any of his "conclusions". Further, in regards to the 2000 test year, 2001 distribution O&M expenses have been and are budgeted to continue to be at similar levels to that of 2000.

Projected Expenditures

Q. Mr. Schlissel states that he "used the most recent data that [he] could find in the materials that the Company provided in response to [his] data requests" (GC Ex. 6.0, page 9, lines 13-15) in regards to projected distribution group O&M expenditures for 2001 and 2002. Had ComEd provided, to Mr. Schlissel, more accurate and updated information?

A. Yes. In response to the Attorney General Office's data request 1.15, ComEd provided its Energy Operations 2001 O&M budget. Mr. Schlissel's statement is correct to the extent that it is in response to **distribution group** O&M expenditures as such. Between 2000 and 2001, ComEd implemented organizational changes. Due to these enduring organizational changes, the April 2000 numbers Mr. Schlissel used and ComEd's most recent budget cannot be put side by side and compared. But this does not change the fact that the information Mr. Schlissel presented in his testimony regarding ComEd's projected O&M expenditures for 2001 and 2002 was superceded and outdated. In fact, 2001 O&M expenses have been and are budgeted to continue to be at similar levels to that of 2000. Further, I do not believe that the revenue requirement, in this proceeding, should be based on budget numbers when there is a wealth of data available regarding the 2000 test year.

Q. In response to an analysis on pages 9-11 of Mr. Helwig's rebuttal testimony, Mr. Effron assumes "annual distribution plant additions of $400 million" (GC Ex 5.0, page 3, line 13). Is this assumption correct?

A. No. That is not correct. It is not even close. Mr. Effron states: "This approximates the distribution plant additions in 2000, exclusive of any transfers from other functions." (GC Ex. 5.0, page 3, lines 14-15). Mr. Effron does not include "transfers from other functions" or adjustments made to the test year, when these investments are in fact distribution plant. As such, his number greatly understates the level of capital additions that ComEd made in 2000 and is expected to make in 2001 and forward. There were at least four instances where more accurate capital additions numbers were provided or could be inferred: 1) 2000 distribution capital additions (including refunctionalization and adjustments), 2) 2000 distribution group capital expenditures, 3) the 2001 Energy Operations capital budget, and 4) the 2001 and 2002 numbers used in the analysis contained in Mr. Helwig's rebuttal testimony. As stated in Mr. Helwig's rebuttal testimony and in ComEd's response to Staff data request BAL 1.04, "In the test year … ComEd added approximately $848 million in capital plant to the distribution system" (ComEd Ex 19.0, page 9, lines 194-195). Additionally, as shown in budget variance analyses provided in response to the Attorney General's Office's first set of data requests, ComEd's distribution group spent approximately $822 million on capital in 2000. Further, ComEd provided its Energy Operations (a subset of Energy Delivery) capital expenditures budget for 2001 in response to the Attorney General's Office's data request 1.14; this amount was significantly greater than $400 million and, while not functionalized, gave sufficient information to show Mr. Effron's number to be far off base. In response to ARES data request 8.05, the Company provided workpapers related to Mr. Helwig's rebuttal testimony that contain the latest 2001 projected capital expenditures data with an approximate functionalization between transmission and distribution. These working papers are numbered AC 0001187, 0001188, and 0001189. As can be seen in these working papers, the Company's projected 2001 distribution capital spending is approximately $724 million (which has been recently updated to $694 million). While Mr. Effron states that he has "not taken into account the fact that ComEd has already adjusted rate base for certain post-test year plant additions" (GC Ex 5.0, page 4, lines 9-10), the capital additions number used in Mr. Helwig's rebuttal testimony is net of these adjustments of $160.7 million (as described in ComEd Exhibits 5.2 and 5.3) and is therefore already a conservative number of $563 million (which has been recently updated to $533 million) for 2001 distribution plant additions. This conservative number is significantly greater than Mr. Effron's estimate of $400 million. Additionally, in the work papers discussed above, a projected 2002 distribution capital expenditure number of $618 million is provided. This level of capital spending is more than two times the level of current depreciation.

<u>Tree Management Expenses</u>

Q. Ms. Jones characterizes responses from Company witnesses as describing expenditures for tree trimming prior to 1998 as "a historical level of expense for tree trimming activity [that] allowed the Company to meet its obligations at the time the expense was incurred." (Staff Ex. 16.0, page 9, lines 196-198). Please discuss.

A. Ms. Jones seems to be implying that the above characterization justifies the inclusion of tree trimming years prior to 1998 in a normalization average. Further Ms. Jones quotes

ComEd witness Linda Manning from Docket No. 99-0117 as stating "that the Company embarked upon an Accelerated Tree Trimming Program in order to meet more stringent reliability requirements and customer expectations" (Staff Ex. 16.0, page 9, lines 198-201). It is for this exact reason (that historical and present reliability requirements and customer expectations are different) that expenses from prior to 1998 should not be included in a normalization average here. An eight-year average that includes five years from different service levels does not produce a reflective average of ComEd's new and on-going levels of service. ComEd has committed to the present tree trimming service levels to maintain a high level of reliability on its system. Ms. Jones' proposed normalization average simply does not reflect the Company's actual costs of doing business.

Q. Ms. Jones states that "the elevated tree trimming expense in 1999 and 2000 is tied directly to the Accelerated Tree Trimming Program that was active in those years." (Staff Ex 16.0, page 10, lines 210-211). Please discuss the validity of her statement.

A. To the extent that Ms. Jones' statement implies that all increased spending in 1999 and 2000, compared with historical years, is incremental to a normal year; it is incorrect. A direct relationship between the "elevated tree trimming expense" in 1999 and 2000 and the "Accelerated Tree Trimming Program" does not exist. The costs of distribution tree trimming depend upon multiple factors, some of which are not independent variables. It is not possible to disaggregate these factors and arrive at a hypothetical incremental cost difference between what ComEd spent on distribution tree trimming in 1999 and 2000 and what ComEd hypothetically would have spent in the same period had it made and implemented its commitment to a 4-year cycle at an earlier time. For example, accelerated tree trimming may be more, the same, or less expensive than other tree trimming depending on the circumstances, e.g., accelerated tree trimming may involve re-trimming lines that recently were trimmed, lines that were trimmed in accordance with the current cycle, or lines that have not been trimmed for a longer period. Thus, accelerated tree trimming under some circumstances may reduce rather than increase tree trimming costs.

Q. Ms. Jones states that ComEd witness Kathryn Houtsma in Docket 99-0117 "also agreed that $35,380,000 was the projection for 2001 [tree trimming expenditures]." (Staff Ex. 16.0, page 10, lines 219-220) Please discuss Ms. Jones' use of that statement.

A. The amount provided by Kathryn Houtsma has been superceded and updated. In response to Ms. Jones' data request BCJ 4.03, to which the Company responded in August, ComEd's 2001 distribution tree management budget is approximately $42.95 million.

Q. Ms. Jones continues to support her eight-year average to normalize tree management expenditures. Do you believe Ms. Jones' eight-year average is a good approximation of a normal year?

A. No. For the reasons stated above and the reasons stated in my rebuttal testimony, an eight-year average is not a good approximation of a normal year (based on ComEd's new service levels). I believe our proposed three-year average is the best approximation of a normal year. The next best alternative would be the four-year average that I discussed previously in my rebuttal testimony (ComEd Ex. 24.0, pages 16-17, lines 333-344).

Storm Damage Expenses

Q. In discussing storm damage expenses, Mr. Sant proposes to use a seasonally adjusted 2001 number (Staff Ex. 17.0, page 4, lines 68-73). Please comment on the merits of his proposal.

A. A full year's data for storm damage expense in 2001 does not exist. Further, it is of my opinion that trying to adjust current 2001 numbers into a full year's worth of data is both speculative and meaningless. The possibility exists that a major storm will occur, making 2001 into a higher storm year than it currently is. For this reason, I believe it is preferable not to use 2001 data at all. But if 2001 data is to be used, it should be used as is (eight months worth of data) in a 44-month average and not adjusted into a full year's worth of data.

Q. On the bottom of page 8 in his rebuttal testimony, Mr. Sant claims that his "proposed storm restoration expense as an average of 1993 – 200[1], adjusted for inflation is a better reflection of a normal level of expense". (Staff Ex. 17.0, page 8, lines 152-153) He cites three reasons why he believes this to be true. Please address these three reasons.

A. The first reason Mr. Sant states is "the Company has not provided any evidence to support the assertion that 1998 – 2000 is more than sufficient to determine a normal level." (Staff Ex. 17.0, page 8, lines 153-155). Throughout my direct and rebuttal testimonies I have described the many substantial changes that ComEd has made to its storm response processes. These include valuable changes in actual practices, such as using more temporary repairs to "get the lights back on", as well as changes to tracking and other improvements. I have additionally pointed out that ComEd has changed the way that it accounts for storms. As I discussed in my rebuttal testimony "costs that may have been previously recorded in other areas of the company operation are now recorded in storm related projects." (ComEd Ex. 24.0, page 19, lines 384-385). It is clear that the pre-1998 costs and post-1997 costs are different. As Mr. Sant states in his testimony "Not only are the expenses in the highest year (1998) almost quadruple the average of the previous five years (1993 – 1997), but also even the low year of the range used by the Company (1999) is almost double most of those years." (Staff Ex. 3.0, page 15, lines 285-291). I am not a statistician, but the chances seem low that an expense (as variable as storms) randomly is greater in each of 1998, 1999, and 2000 than in the previous five years before that. Mr. Sant's own comments illustrate the fact that the pre-1998 costs and post-1997 costs are clearly different. It is important not to use pre-1998 costs as these costs will not reflect ComEd's actual cost of business.

The second reason Mr. Sant states is "three years is not a sufficient length of time to determine a normal level." (Staff Ex. 17.0, page 8, lines 155-156). As it is imperative to use cost information that is comparable with ComEd's current costs, pre-1998 data cannot be used. If Mr. Sant needs an alternative to a three–year average, he has 44-months worth of data available to him.

The third reason Mr. Sant states is that "data for 2001 is more comparable to pre-1998 years than to post-1997 years." (Staff Ex. 17.0, page 8, lines 157-158). On page eight of his rebuttal testimony Mr. Sant theorizes a "variety of possible explanations for the significantly lower expense amount in 2001." (Staff Ex. 17.0, page 8, lines 141-142). The fact is that storm expenses fluctuate from year to year. Even if extrapolated 2001 data makes it appear that 2001 will be a low storm damage expense year, this does not show that pre-1998 and post-1997 data is comparable. The fact that, what appears to be, a low storm damage expense year (2001) would still be greater than 4 of the 5 years (pre-1998) weighs towards the fact that pre-1998 and post-1997 data is not comparable.

Q. Mr. Sant disagrees with the Company's alternative proposal of using a 44-month average because it "only normalizes the so-called incremental costs and not the fixed costs" (Ex. 17.0, page 9, lines 172-173). Why has the Company proposed to only levelize incremental costs?

A. The Company has proposed to levelize incremental costs to be consistent with its proposed storm reserve account. This proposed account is designed to reflect the way the Company runs its business. It is an attempt to keep managers responsible for their fixed costs while not "punishing" them for incremental costs that are highly variable and difficult to predict. Additionally, it is important to note that the Company's proposed three-year average of incremental costs leads to a greater downward adjustment than what would have resulted from a three-year average of total costs. Averaging the total storm damage expenses from 1998-2000 leads to an average of $27.6 million and a downward adjustment of $2.3 million. This compares to ComEd's proposed downward adjustment of $2.9 million.

Q. Mr. Sant states that "if the Commission rejects my proposal, Mr. Effron's proposal appears to be the most reasonable alternative" (Ex. 17.0, page 11, lines 212-214). Do you agree with Mr. Sant?

A. No. Mr. Effron proposes a five-year normalization average based on 1996-2000. (Ex GC 2.0, pages 12-14). For the reasons that I have stated in my various testimonies, an average that includes years prior to 1998 does not provide an accurate reflection of

ComEd's current and future actual costs. Additionally, Mr. Effron's average does not take into account cost inflation.

Storm Reserve

Q. In his rebuttal testimony, Mr. Sant begins by stating what he "understand[s] your position to primarily be" in your rebuttal testimony responding to Mr. Sant's direct testimony on the subject of ComEd's storm reserve proposal. (Staff Ex. 17.0, page 12, lines 218-227). Is his understanding correct?

A. No. Unfortunately, Mr. Sant's characterization is in part inaccurate and in part incomplete. In his direct testimony, Mr. Sant expressed his opposition to ComEd's proposal based on three separate arguments. In my rebuttal on this subject, I made four primary points: (1) Mr. Sant's three arguments all focused on whether ComEd's storm reserve proposal is "appropriate", not on whether, if it is appropriate, it is desirable. In other words, Mr. Sant's three arguments did not speak to the merits as such of ComEd's proposal. (2) Mr. Sant's three arguments apparently are erroneous for several reasons, and they are inconsistent with arguments made by Mr. Sant regarding other expenses. (3) ComEd's proposal is a voluntary proposal by a utility that is in the interests of shareholders, ratepayers, and alternative suppliers alike. (4) No other party has expressed any opposition to ComEd's proposal. In his characterization of my rebuttal's "primary" points, Mr. Sant does not fairly reflect point "(1)" above, he does not reflect the second portion of point "(2)", and he does not reflect point "(3)".

Q. In his rebuttal testimony, Mr. Sant goes on to argue that the Commission should not consider your comments in your rebuttal testimony, where you indicated that you did not believe that Mr. Sant had expressed the view that if ComEd's storm reserve proposal is appropriate it should not be approved. (Staff Ex. 17.0, pages 12-13, lines 228-243). Is his argument valid?

A. No. Mr. Sant continues to fail to acknowledge that the three particular arguments he has made in opposition to ComEd's storm reserve proposal all focus on whether it is appropriate, and do not speak to whether, if it is appropriate, it is a good or bad idea. I am not saying that questions of "appropriateness" are unimportant. They are very important. I am not saying that questions of appropriateness invariably have nothing to do with the merits as such of a proposal. Sometimes they do, sometimes they do not. In this instance, in my view, Mr. Sant's three particular arguments do not speak to the merits as such of ComEd's proposal. Finally, at least until his rebuttal, I did not see Mr. Sant as having expressed implacable opposition to ComEd's proposal.

Q. In Mr. Sant's rebuttal, he characterizes a portion of your rebuttal as "in essence" "saying, 'if 100% of Mr. Sant's reasons for disagreeing with the proposed storm reserve are incorrect then he does not oppose the proposal.'" (Staff. Ex. 17.0, page 13, lines 238-240). He states that is a meaningless argument. (*Id*. at lines 240-243). Is he right?

A. No. He did not fairly characterize what I said on this point. Again, what I said was that Mr. Sant had not expressed a view regarding whether, if his three arguments about appropriateness are incorrect, the proposal would be undesirable or should not be approved. I have discussed above why, in this particular instance, I have made a distinction between the concepts of appropriateness and desirability. I still do not see Mr. Sant, even in his rebuttal, making any valid factual point that actually shows that the proposal is anything other than a good idea in terms of its merits as such. If Mr. Sant is implacably opposed to the proposal even if his three arguments are mistaken, then that is his prerogative, although it is not persuasive.

Q. Are you saying that ComEd's proposal should be adopted if it is inappropriate?

A. No. If the proposal is inappropriate in a way that bars its approval, then, of course, it should be rejected. However, if the Commission lawfully may approve the proposal, then I recommend that it do so in the interests of all market participants.

Q. Mr. Sant in his rebuttal disagrees with you as to whether ComEd's proposal violates the doctrine of single-issue ratemaking. (Staff Ex. 17.0, pages 13-14). He begins by stating that "apparently ComEd is not even convinced of that assertion," citing certain rebuttal testimony of ComEd witness Jerry Hill (ComEd Ex. 23.0). (Staff Ex. 17.0, page 13, lines 245-13). Is Mr. Sant's assertion correct?

A. No. Mr. Sant cites four portions of Mr. Hill's rebuttal and supplemental rebuttal testimony, but Mr. Sant then acknowledges that three of them do not even mention single-issue ratemaking. (Staff Ex. 13.0, page 13, lines 253-256). As to the other one, here is what Mr. Hill actually stated: "Because the impact of the average balance of Budget Payment Plan balances is just one element of cash working capital, it is my opinion that this adjustment [proposed by Staff witness Burma Jones] constitutes single-issue ratemaking or regardless of whether it falls under that doctrine as a legal matter, runs afoul of the underlying rationale for that doctrine." (ComEd Ex. 23.0, page 14, lines 309-313). Thus, Mr. Hill, who, like me, is not an attorney, expressly acknowledged that the doctrine may be legally inapplicable in this proceeding. In addition, as I understand it, there Mr. Hill was talking about a particular adjustment inappropriately separating out a particular component of a particular expense. ComEd's storm reserve proposal involves the entirety of ComEd's variable storm expenses. It simply does not raise the same kinds of concerns that I understand Mr. Hill to have expressed there and in the three other spots cited by Mr. Sant. Mr. Sant also fails to factor in the unique and inherently significant variability of variable storm expenses.

Q. Mr. Sant goes on to argue, however, that ComEd's proposal inappropriately analyzes expenses in one FERC Account without analyzing variances in other FERC Accounts. (Staff Ex. 17.0, page 14). Is that the same concern expressed by Mr. Hill?

A. Not as I understand Mr. Hill's testimony. Mr. Hill, as I understand it, was stating, among other things, that some adjustments are improper because they fail to consider other relevant expenses or accounting changes. Mr. Sant, in my view, has not shown that ComEd's proposal disregards relevant information regarding any other expenses or any accounting changes. Indeed, his position regarding normalizing variable storm expenses suggests that this is not a material concern. Also, the reconciliation ComEd proposes would occur only in another rate case, as Mr. Sant acknowledges. (Staff Exhibit 17.0, page 14). If, in fact, there were grounds for an adjustment to the true-up, then any party would be free to propose such in that case. I do not think, though, that the hypothetical possibility that an adjustment would be warranted is a valid ground for rejecting this particular proposal.

Q. Mr. Sant in his rebuttal also takes issue with your rebuttal as to the issue of test year principles, expressing a concern about mis-matching of expenses and revenues. (Staff Ex. 17.0, page 15-16). Is his concern valid?

A. Again, I cannot speak to any legal question as to the application of test year principles. However, it simply cannot be denied that it is the very nature of ComEd's proposal that, over time, it is in the interests of ratepayers, both in that it essentially trues up the utility's variable storm expenses and in that it contributes to reducing the utility's cost of capital. The proposal over time reduces, not increases, "mis-matching."

Q. Mr. Sant suggests that it appears that you do not disagree that ComEd's proposal constitutes retroactive ratemaking. (Staff Ex. 17.0, page 17, lines 332-339). Is he right?

A. As I stated in my rebuttal, I cannot give a legal opinion on the application of the general principle against retroactive ratemaking, to the extent that it is a legal doctrine, to ComEd's proposal. However, I did state and show in my rebuttal and I reiterate here that his concern, to the extent it is one of policy rather than law, is not well-placed. Unlike Mr. Sant, as I see it, my testimony speaks to the merits of the particular proposal that is before the Commission. It is clear that that proposal, if lawful, is in the interests of shareholders, ratepayers, and alternative suppliers. Thus, if it is lawful, I would urge the Commission to approve the proposal.

Q. Does this conclude your surrebuttal testimony?

A. Yes.